

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL CATONO MURRAY,
Plaintiff,
v.
B. HOLMES, et al.,
Defendants.

No. 2:21-cv-0214 KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel. Defendant Holmes filed a motion to stay discovery pending a ruling on defendant Holmes' motion to dismiss. Upon review, the court finds that defendant's motion for stay is well-taken and is granted.

On September 21, 2021, defendant filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12. Plaintiff did not oppose the motion.

Local Rule 230(l) provides in part: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion . . ." Id.

Local Rule 110 provides that failure to comply with the Local Rules "may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." Id. Failure to comply with the Local Rules may result in a recommendation that the action be dismissed.

Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

Id.

By this order, plaintiff is provided an opportunity to file an opposition.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendant's motion for stay (ECF No. 24) is granted.
2. Discovery is stayed pending a ruling on the motion to dismiss.
3. Within thirty days from the date of this order, plaintiff shall file an opposition, if any, motion to dismiss. Failure to file an opposition will be deemed as consent to have the: (a) dismissed for lack of prosecution; and (b) action dismissed based on plaintiff's failure to comply with these rules and a court order. Said failure shall result in a recommendation that this be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

Dated: November 4, 2021

Kendall J. Newman
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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